

Filed for intro on 05/15/95
House Bill _____
By _____

Senate No. SB1918
By Crutchfield

AN ACT to enact the Hamilton County Restaurant Revenue Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the Hamilton County Restaurant Revenue Act.

SECTION 2. The tax authorized by this act shall be in addition to all other taxes which Hamilton County is now authorized to levy, whether levied in the form of excise, license, or privilege taxes.

SECTION 3.

(a) Hamilton County may levy a tax on the privilege of engaging in the business of selling prepared food and beverages at retail in this state, subject to this act.

(b) The sale of prepared food and beverages at retail is the sale of:

(1) Meals served on or off the premises of a retailer;

(2) Food and beverages furnished, prepared, or served for consumption at tables, chairs or counter, or from trays, glasses, dishes, or other tableware provided by the retailer;

(3) Food and beverages sold by a retailer who ordinarily sells for consumption on or near the premises of the retailer even though such food is sold on a "take out" or "to go" order and is actually packaged and taken from the premises of the retailer;

(4) Food and beverages sold through vending machines;

(5) Food and beverages sold by street vendors; and

(6) Items sold incidental to the sale of food and beverages.

(c) The rate of the tax is one percent (1%) of the sales price of prepared food and beverages.

SECTION 4. The following sales of food and beverages are exempt from this tax:

(1) Meals served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for charitable purposes, in furtherance of the purposes for which it was organized, and with the net proceeds of the meals, if any, to be used exclusively for the purposes of the corporation or association.

(2) Meals served or furnished, either directly or by contract, by educational institutions exempt from federal income taxes when the meals are served or furnished:

(A) To students regularly attending the institution;

(B) To employees, faculty members, or administrative officers of the institution;

(C) To volunteers providing services in connection with the institution; or

(D) To other persons if the meals are served or furnished pursuant to an activity related to the educational purpose of the institution.

(3) Meals served or furnished on the premises of any institution of the state, political subdivision of the state, or of the United States, to inmates and/or employees of the institution.

(4) Meals served or furnished on the premises of a hospital, sanitarium, convalescent home, nursing home, or home for the aged, except for meals served in any restaurant that offers its accommodations to the public.

(5) Meals furnished by any person while transporting passengers for hire by train, bus, or airplane if furnished on any train, bus, or airplane.

(6) Dispensing of a beverage by a single serving beverage machine where not used in conjunction with other food vending machines.

SECTION 5. The tax only applies to the sale of prepared food and beverages within the county's boundaries.

SECTION 6. The tax established by this act remains in effect for twenty-three (23) years, unless Hamilton County by resolution of its governing body establishes a specific earlier termination date.

SECTION 7.

(a) The county shall provide for the collection and administration of the tax. The county may administer and collect the tax itself or may contract with the state department of revenue for these services.

(b)(1) In collecting and administering the tax levied under the authority of this act, the county has all the powers which the commissioner of revenue has in collecting and administering the state sales tax.

(2) Rules and regulations promulgated by the commissioner may be adopted by reference, and penalties and interest for delinquencies may be imposed equal to the rates provided by Tennessee Code Annotated, Title 67 for sales taxes.

(c)(1) The county may provide by resolution for the department of revenue to collect the tax concurrently with the collection of the state sales tax in the same manner as the state sales tax is collected if the department has promulgated rules and regulations governing such collection.

(2) The department shall remit the proceeds of the tax to the county levying the tax, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection; provided, however, this percentage may not exceed one percent (1%) of the taxes collected.

(d) The department shall not collect the tax under an authorization until the first day of a month occurring at least thirty (30) days after receipt of notification of the adoption by the commissioner of revenue.

(e)(1) Upon a claim of illegal assessment and collection, the taxpayer shall have a remedy as provided in Title 67, Chapter 1, Part 18. It is the intention of the general assembly that the provisions of law which apply to the recovery of state taxes illegally assessed and collected apply to the recovery of taxes illegally assessed and collected under the authority of this act.

(2) An aggrieved person shall give notice of any tax paid under protest to the Hamilton County Legislative Body.

SECTION 8.

(a) The governing body shall distribute the proceeds from the tax levied under this act.

(b) The county trustee may not receive compensation for receiving and distributing the taxes under subsection (a), notwithstanding the provisions of Section 8-11-110 or any other law to the contrary.

SECTION 9. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Hamilton County Commission and certified to the secretary of state.

SECTION 10. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 9.

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